IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5661 OF 2004

Shri Motiram Ramchandra Chavan ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr.S.A.Sawant for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent No.1.

Mr.D.N.Salvi for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 3, 2005.

P.C.

1. Heard Counsel for the parties.

2. There is substance in the grievance made on behalf of the Applicant that his first application came to be rejected by the Trial Court on the reasoning that charge-sheet was yet to be filed and that, there was possibility of absconding of the accused, if released on bail. In other words, relevant evidence was not analysed to

ascertain whether there was reasonable ground for believing that the Applicant is not guilty of the alleged offence as is the requirement of Section 37 of the Act. Whereas, the second Application has also been rejected, being impressed by the fact that the first Application of the Applicant is rejected on merits.

3. The limited grievance made before this Court is that the Trial Court shall examine the relevant aspects of the case, only whereafter, to record a clear finding as specified under Section 37 of the Act. As mentioned earlier, there is substance in the grievance of the Applicant. The appropriate course, is to permit the Applicant to prefer fresh application for bail before the Trial Court, which in turn shall be decided on its own merits in accordance with law.

4. Disposed of accordingly.

A.M.KHANWILKAR, J.